

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23848 of 2022

Arising Out of PS. Case No.-222 Year-2020 Thana- DURGAWATI District- Kaimur (Bhabua)

Sunil Kumar Gupta @ Sunil Sah @ Bablu Sah, aged about 31 years, Male,
son of Ramayan Sah, Resident of village - Dadar, P.s. Mohania, District-
Kaimur (Bhabhua).

... .. Petitioner

Versus

The State of Bihar.

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Ashok Kumar Mishra, Adv.
For the State	:	Mr. Nagendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

9 09-11-2022 Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner seeks bail in connection with NDPS Case No.29 of 2020, arising out of Durgawati P.S. Case No.222 of 2020 registered for the offence punishable under Sections 8, 20(b)(ii)(c), 22, 27(A) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity the 'NDPS Act'), pending in the Court of learned Sessions Judge-cum-Special Judge, Kaimur at Bhabua.

3. The prosecution case is that one co-accused Umesh Kumar has been taken into custody for alleged recovery of five (5) Kgs of *ganja*. He has called the petitioner on phone whereafter the petitioner arrived at the place of detention and



tried to secure release of co-accused Umesh Kumar by throwing Rs. 1 lakh cash. The statement of co-accused Umesh Kumar has led the police party to go to the house of co-accused Dukhanti Devi @ Rampati Sha, where 390 kgs of *ganja* were stored in ten (10) packets. From that place one Bhagwani Devi has also been arrested, who has disclosed that the petitione had concealed the *ganja* along with co-accused Dukhanti and was carrying on trade of *ganja* on commission basis through peddlers.

4. Learned counsel for the petitioner submits that the entire prosecution case does not allege any recovery from the petitioner. His implication is merely on basis of confessional statements of co-accused. The submission is that from the prosecution case itself, there is sufficient scope for this Court to arrive at a conclusion that the petitioner is *prima facie* not guilty of the offence in view of the parameters contained in Section 37(1)(b)(ii) of the NDPS Act, and petitioner,as such, is entitled to favourable consideration and grant of bail.

5. The learned APP has, however, submitted that based on the same submissions, prayer was made earlier and rejected under order dated 16.09.2021 in Cr. Misc. No. 13144 of 22021 (Annexure-1). This Court had taken into consideration submissions advanced on behalf of the petitioner as well as



learned APP that the petitioner's nexus with the illicit trade was established in the course of the investigation and that informant is an eye-witness to the petitioner's attempt to secure release of co-convicts. Having considered these aspects of the matter along with the antecedents of the petitioner, being another case under the NDPS Act, namely the NDPS Case No. 23 of 2016, petitioner's prayer for bail was rejected.

6. On consideration of the rival submissions, this Court does not find any basis to take a different view today, than what has been recorded by this Court in order dated 16-09-2021, rejecting the petitioner's prayer for bail. This Court would also take into consideration the decision of the Apex in the case of ***Supreme Court Legal Aid Committee Representing Undertrial Prisoners vs. Union of India and Another*** reported in (1994) 6 SCC 731.

7. The petitioner has not completed the period of custody, in terms of the said judgment so as to enable favourable consideration of his prayer for bail, in the facts and circumstances noted above.

8. This Court, in the facts and circumstances of the case, for purposes of grant of bail, is inclined to accept the submissions advanced by the learned APP for the State. The



prayer for bail is rejected.

9. Learned counsel for the petitioners submits that the Court may give some observation for expeditious trial. This Court would only record that the authorities are under legal obligation as well as statutory obligation under the N.D.P.S. Act to complete the trial expeditiously. They should proceed without granting any undue adjournments or any necessary delay so as to conclude the trial expeditiously in accordance with law.

10. This court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite Court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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